



Comptroller General
of the United States

Washington, D.C. 20548

M35020

Decision

Matter of: Negotiations International, Ltd.

File: B-242374

Date: March 26, 1991

Martin Wender for the protester
James E. Hutcheson, Esq., for MSC Associates, Inc., an
interested party.
Richard L. Frenette, Esq., Department of the Army, for the
agency.
Paul Jordan, Esq., Office of the General Counsel, GAO, par-
ticipated in the preparation of the decision.

DIGEST

Protest by firm not in line for award if the protest were
sustained is dismissed since the protester does not have the
requisite direct economic interest in the contract award to be
considered an interested party under General Accounting
Office's Bid Protest Regulations.

DECISION

Negotiations International, Ltd. (NIL) protests the award of a
contract to MSC Associates, Inc. under request for proposals
(RFP) No. DACA72-90-R-0001, issued by the Army Corps of
Engineers. NIL contends that MSC lacks the requisite
experience to perform the contract and thus questions the
agency's determination that MSC is technically qualified and
responsible.

We dismiss the protest.


Under our Bid Protest Regulations, only an "interested party"
may protest a federal procurement. 4 C.F.R. § 21.1(a) (1990).
An interested party is an actual or prospective bidder or
offeror whose direct economic interest would be affected by
the award of a contract or the failure to award a contract.
4 C.F.R. § 21.0(a). Determining whether a party is interested
involves consideration of a variety of factors, including the
nature of issues raised, the benefit of relief sought by the
protester, and the party's status in relation to the

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procurement. Black Hills Refuse Serv., 67 Comp. Gen. 261 (1988), 88-1 CPD ¶ 151. A protester is not an interested party where it would not be in line for contract award were its protest to be sustained. ECS Composites, Inc., B-235849.2, Jan. 3, 1990, 90-1 CPD ¶ 7.

Here, there were three offerors, all of whom were found technically acceptable. The solicitation provided for award to the low-priced, technically acceptable offeror. MSC submitted the low offer and NIL submitted the high offer. Since the second low offeror would precede the protester in eligibility under this solicitation, even if MSC were found ineligible, the protester lacks the direct economic interest required to maintain a protest.^{1/}

The protest is dismissed.


John F. Mitchell
Assistant General Counsel

^{1/} NIL assumed that it was next in line for award after MSC because the second low offeror, Business Management Research Associates, Inc. (BMRA), had not extended its offer when given the opportunity by the agency. However, BMRA subsequently submitted a revised cost proposal in response to an amendment to the RFP. NIL likewise submitted a revised cost proposal after an earlier declination to extend its original offer. Thus, as the second low, technically acceptable offeror, BMRA, not NIL, would be in line for award if we sustained the protest.